REMARKS/ARGUMENTS

Claims 1, 3-7, 9, 10 and 12-17 are pending in the present application. Claims 1 and 9 have been amended by this Amendment. Claims 2, 8 and 11 have been canceled without prejudice or disclaimer.

Claim Rejections under 35 USC § 102 and 35 USC § 103

Claims 1, 3-5, 10 and 12-15 stand rejected under 35 USC § 102(e) as anticipated by Choksi (U.S. Pub. No. 2005/0250509). Claims 7-9 stand rejected under 35 USC § 103(a) as unpatentable over Choksi in view of Immonen et al. (U.S. Pat. No. 7,010,305, hereinafter "Immonen"). Claims 6 and 16-17 stand rejected under 35 USC § 103(a) as unpatentable over Choksi in view of Jouppi et al. (U.S. Pat. No. 7,031,718, hereinafter "Jouppi").

Applicants refer the Examiner to the Amendment filed November 18, 2009 for a discussion of Applicants disclosed embodiments. As disclosed in that Amendment, Applicants' recited method enables a mobile communications network operator to give priority in the processing of data streams based on an overall, i.e., global, priority level that is based on two separate QoS parameters of the service and the subscriber, respectively.

Applicants' independent claim 1 has been amended herewith to further define one type of service QoS parameter used to determine the overall priority level. In particular, Applicants' independent claim 1 now recites "wherein the at least one second quality of service parameter related to the type of service used to determine the overall priority level (NGP) includes a "Traffic Class" quality of service parameter, as defined within the framework of the 3GPP telecommunications standard".

The combination of cited prior art fails to disclose the above limitations because the combination fails to disclose an overall priority level based on a subscriber priority and a type of service parameter including a "Traffic Class" quality of service parameter as defined in the 3GPP telecommunications standard. The various "Traffic Class" values as listed in the table starting at page 24 of the application as filed relate to whether the application requires real-time resources.

Choski describes a method for managing bandwidth requests in a wireless network. The requests are processed based on a subscription level of the user. (see paragraphs 6-8 of Choski). More specifically, depending on the priority level of the user, bandwidth requests for call admission are forwarded to one of queues 86 to 90. (see Figs. 2 and 3 and paragraphs 31 and 32 of Choski). Correspondingly, bandwidth requests for additional bandwidth for an ongoing phone call are forwarded to one of queues 94-98 and bandwidth requests for handoff admission are forwarded to one of queues 114-118, depending on the priority level of the user. (see Figs. 2 and 3 and paragraphs 35 and 39 of Choski).

The requests in Choski are processed depending on their queues. In particular, Choski discloses at paragraph 35 that "[r]equests in the premium queues 86 and 94 are processed first with requests in the assured queues 88 and 96 processed next followed by requests in the best effort queues 90 and 98" and "call admission request of a priority are processed prior to the additional bandwidth request of the same priority". However, the requests of Choski are placed in the queues based solely on the priority level of the user.

The Examiner (at page 3 of the Office Action) considers the forwarding of a request in a particular queue in Choski corresponds to Applicant's claimed step of "determining an overall priority level" depending on the "type of the request" and the "priority level of the user". (see paragraph 53 of Choski). More specifically, the Examiner appears to consider the "type of

request" (i.e., additional bandwidth, admission, etc.) in Choski corresponds to Applicants' claimed "at least one second quality of service parameter related to a type of service". However, the "type of request" in Choski and Applicants' claimed service parameter are completely different parameters. More specifically, the "type of request" in Choski is not a quality of service parameter relating to whether an application requires real-time resources.

The "type of request" in Choski can be a bandwidth request for an admission call, an ongoing call or a handoff call. (see paragraph 42 of Choski). The type of call as mentioned in paragraph 30 of Choski (i.e., voice, video or data call), however, is not taken into account for forwarding the request to a particular queue in Choski. In contrast, Applicants' claimed invention recites a service parameter that includes "a "Traffic Class" quality of service parameter, as defined within the framework of the 3GPP telecommunications standard". Choski fails to identify or delineate any overall priority level determined based on a subscriber priority and the "Traffic Class" parameter.

In the rejection of claim 8, the Examiner (at page 6 of the Office Action) asserts that Immonen teaches at col. 9, lines 14-32 a quality of service parameter that includes a "Traffic Class" quality of service parameter. The Examiner, however, appears to simply be repeating his comments of the first Office Action in which he incorrectly considered Immonen as anticipating Applicants' original claim 1. The Examiner does not explain how Immonen, which merely mentions a "Traffic Class" parameter, provides the skilled artisan a reason to use this parameter in the method of Choski. In particular, although a priority level based on subscriber priority is disclosed in Choski and a priority level based on Traffic Class is disclosed in Immonen, one skilled in the art would have no reason to determine a overall, i.e., global, priority level that is based on both the subscriber priority of Choski and the Traffic Class of Immonen. In particular,

as noted above, the "type of request" asserted by the Examiner as the "service" parameter in Choski is a completely different parameter than "Traffic Class" and, the skilled artisan would not substitute the completely different parameter of "Traffic Class" for the "type of request" in Choski. Such a modification of Choski would change Choski's principle of operation and, thus, would not be made by one skilled in the art. (see MPEP 2143.01(VI)).

As explained in Applicants' previous response, the method recited in Applicants' independent claim 1 enables a mobile communication network operator to give priority in the processing of data streams based on a global priority level that is based on both the type of service specified by the Traffic Class and on the subscriber priority level. In contrast, Choski's quality of service is based solely on a priority level of the subscriber. Although the "type of request" is also taken into account, Choski does not allow for favoring resource access to real time applications, while maintaining non-real time application resources for priority subscribers. Immonen fails to cure this deficiency. The combination of Immonen and Choski at best teaches that priority can be based on Traffic Class instead of a subscriber level and, in such a case, it is not possible to favor resource access for a higher priority subscriber, while maintaining resource access for a lower priority subscriber for a real-time application.

Independent claim 1 is accordingly deemed to be patentably distinct over the cited art for at least the foregoing reasons. Claims 3-7, 9, 10 and 12-17, which depend from independent claim 1, are deemed to be patentably distinct over the cited art for at least the same reasons as is claim 1, as well as on their own merits.

In view of the foregoing, Applicants request that the rejections under 35 USC § 102(e) and 35 USC § 103(a) be withdrawn.

CONCLUSION

This application is now believed to be in condition for allowance, and early notice to that effect is solicited.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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